IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.362 OF 2006

Microsynth Fabrics (India) Ltd. ...Petitioner

vs.

National Builders. ... Respondent.

Mr. S.U.Kamdar i/b. V.L.Panjwani, for Petitioner.

Mr.Gaurav Joshi i/b. Ms.Munim i/b. Rajesh Kothari & Co.,for Respondent.

CORAM: D.K.DESHMUKH,J.

DATED: 13th November,2006..

P.C.:-

1. By this petition, the petitioner challenges the Award made by the sole arbitrator dated 24.4.2006. The first challenge is to the awarding of amount of Rs.5,40.324/- against claim no.4. The learned Counsel appearing for respondent states that the respondent gives up the claim no.4. Therefore, by consent of parties the Award to that extent stands modified.

2. The next challenge is to the awarding of amount of Rs.4,34,565/- on account of escalation in respect of work of Phase I. The learned Counsel appearing for petitioner submits that by minutes of meeting between the parties dated 8.2.1996 the escalation was agreed upon till completion of the work, and therefore, the learned Arbitrator was not justified in awarding any amount on that account. Perusal of the Award shows that according to the learned Arbitrator, by the minutes dated 8.2.1996 the parties had agreed to pay escalation till completion of the work and the parties have also agreed that work in relation to Phase I will be completed in all respect by 28.2.1996. But despite this, the work was not completed till 28.2.1996, it dragged on till 31.7.1996. Therefore, the learned Arbitrator on interpreting the minutes between the parties has awarded escalation for the period of 1.3.1996 till 31.7.1996.

3. After having heard the learned Counsel appearing for both the sides, I find that the findings has turned on the interpretation placed by the learned Arbitrator on the minutes of the meeting dated 8.2.1996. The interpretation placed by the learned Arbitrator is a possible interpretation and therefore, in my opinion, the finding cannot be disturbed.

4. The next challenge to the Award is to the awarding of Rs.92,252/- by the learned Arbitrator on account of reconstruction of the compound wall. The learned Counsel appearing for the petitioner submits that the learned Arbitrator has not given any reason for awarding this amount. But perusal of paragraph 9(vi) shows that the learned Arbitrator has observed that on the account of labour charges for the labour work done for the construction of the compound wall, the petitioner agreed to pay Rs.94,368/- which is also evident from the bill dated 4.10.1997 copy of which has been produced by the respondent before me. Though the petitioner had agreed to pay Rs.94,368/- on account of labour charges for reconstruction of compound wall, the learned Arbitrator has awarded Rs.92,252/- because that was the claim which was made by the respondent. I find no illegality committed by the learned Arbitrator in awarding Rs.92,252/-. Thus, I do not find any reason to interfere with the Award save and except that as the respondent has given up claim no.4 the Award of learned Arbitrator awarding Rs.5,40.324/- against claim no.4 is set aside and the Award to that extent including awarding of interest on that amount is modified.